

UNITED STATES BANKRUPTCY COURT

DISTRICT OF HAWAII

In re

JIM SLEMONS HAWAII, INC.,

Debtor.

Case No. 09-01802

Chapter 11

Re: Docket No. 348

MEMORANDUM CONCERNING MOTION TO REOPEN

Debtor's second motion to disqualify the bankruptcy judge who is presiding over this bankruptcy case was heard on Thursday, July 28, 2011. The matter was taken under submission. On Tuesday, August 2, Debtor filed an *ex parte* motion to reopen the matter.

The bases for the motion are, first, that counsel for Debtor's former lessor, Continental Investment Co. Ltd. ("Continental"), has ordered a transcript of the hearing. Continental appeared in opposition to the motion to disqualify, and there are ongoing disputes between the Debtor and Continental. Second, Debtor notes that its counsel received a call from a clerk of this court concerning the date of a notice of appeal filed by Debtor. Third, unspecified 'new matters' are alleged to have arisen.

The *ex parte* motion will be denied for the following reasons:

1. There is nothing extraordinary about counsel ordering a transcript. It does

not suggest that a matter should be reopened.

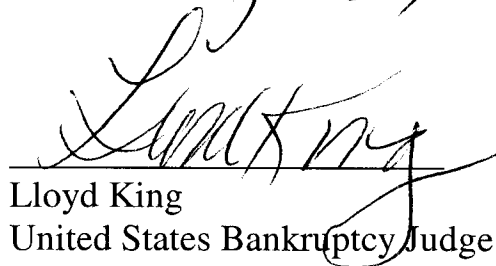
2. At the July 28, 2011, hearing of the motion to disqualify, Debtor's counsel stated that he would give the court the date of filing of Debtor's notice of appeal from an order of this court. The call to counsel from a clerk of this court was to remind counsel to supply the date.

3. The "new matters" which Debtor's counsel wishes to explore are not stated in any detail, and cannot be the basis of reopening.

4. At the hearing on July 28, 2011, of the motion to disqualify, counsel for the Debtor spoke for over 2 hours in support of the motion. The matter has been fully explored.

Debtor's counsel is also concerned about a matter that was set for hearing in this court, before the judge who was the subject of the disqualification motion, on August 8, 2011. That matter has been taken off calendar. At this time, there is no hearing date. Counsel for Debtor was so advised, by voice mail from the clerk, on Friday, July 29, 2011.

Dated: Honolulu, Hawaii, August 3, 2011.


Lloyd King
United States Bankruptcy Judge